

Kyriacos S. Tsircou (SBN 209905)
Konrad L. Trope (SBN 133214)
Tsircou Intellectual Property Law
515 S Flower Street, 36th Floor
Los Angeles, California 90071
Phone Number: (323) 660-9916
Fax Number: (323) 660-9917
Email: kyri@tsircoulaw.com
Email: ktrope@tsircoulaw.com

Counsel for Plaintiff Gold Crest, LLC.,
a California Limited Liability Company

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

GOLD CREST, LLC., a California
Limited Liability Company,

Plaintiff,

v.

LUX LED, LLC., a Texas Limited
Liability Company; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 2:19-cv-1201-FMO-JPR

**AGREED ORDER OF DISMISSAL
AND STIPULATED INJUNCTION**

DATE: TBA
TIME: TBA
CTRM: 6D

Plaintiff GOLD CREST, LLC, a California Limited Liability Company
("Plaintiff" or "Gold Crest"), Defendant LUX LED, LLC, a Texas Limited Liability
Company ("Defendant" or "LUX"), as well as former Defendants SUNEEL
MENON, a resident of the State of Texas; AZIZ MUSCATWALLA, a resident of
the State of Texas; and MICHAEL BOWEN, a resident of the State of Alabama
(collectively "Former Defendants"), hereby present this Agreed Order of Dismissal
and Stipulated Injunction, for which the parties request the Court to confirm and
retain jurisdiction to enforce the terms of the Stipulated Injunction herein and
otherwise dismiss this case. Accordingly, by stipulation and agreement of the
parties, as well as the Former Defendants, the Court finds as follows:

1 **FINDINGS OF FACT**

2 1. On or about February 15, 2019 Plaintiff filed an action against
3 Defendant LUX and the Former Defendants alleging various causes of action under
4 the Lanham Act (15 U.S.C. §§ 1051 et. seq.) relating to direct, contributory, and
5 vicarious liability for alleged infringement of Plaintiff's trademarks, and also for
6 unfair competition (the "Complaint"). See Docket Entry #1.

7 2. Defendant LUX filed an Answer on or about March 20, 2019. See
8 Docket Entry #17.

9 3. The Court granted Former Defendants' Motions to Dismiss pursuant to
10 Rule 12(b)(2) and Rule 12(b)(6) on or about July 5, 2019. See Docket Entry #40.

11 4. Plaintiff Gold Crest filed a First Amended Complaint ("FAC") against
12 LUX on or about July 9, 2019 alleging direct trademark infringement, false
13 designation of origin, and unfair competition under the Lanham Act, and alleging a
14 state law claim for unfair competition; Defendant LUX filed its Answer to the FAC
15 on or about July 22, 2019. See Docket Entries #'s 41 and 42.

16 5. This Court has jurisdiction over this matter.

17 6. The Court finds that Plaintiff, Defendant, and Former Defendants have
18 entered into an out-of-court, confidential settlement agreement resolving and
19 settling the differences among them, and that the parties and the Former Defendants
20 have jointly asked the Court to enter this Agreed Order of Dismissal and Stipulated
21 Injunction.

22 7. Defendant LUX does not admit any of the allegations in the Complaint
23 and FAC, except as specifically stated in this Order. Defendant LUX admits the
24 Court has jurisdiction over this case and to enter this Agreed Order of Dismissal
25 and Stipulated Injunction, including the continuing power of future enforcement
26 regarding the Stipulated Injunction provided for herein.

27 8. Former Defendants Menon, Bowen and Muscatwalla, deny the
28 allegations in the Complaint and FAC, except as specifically stated in this Order.

1 Former Defendants were previously dismissed from this case for a lack of personal
2 jurisdiction. Former Defendants do not consent to the Court's personal jurisdiction
3 over them generally, but the Former Defendants do specifically consent and agree
4 to the Court's jurisdiction over each of them individually to the extent necessary for
5 future enforcement of the terms of the Stipulated Injunction provided for herein.

6 9. Defendant LUX and Former Defendants waive all rights to appeal or
7 otherwise challenge or contest the validity of this Order.

8 9. Plaintiff Gold Crest asserts that there is good cause to believe that it
9 will suffer immediate and irreparable harm unless Defendant LUX and Former
10 Defendants Bowen, Muscatwalla, and Menon are restrained and enjoined by order
11 of this Court.

12 10. Plaintiff Gold Crest, LLC is the owner of the following United States
13 trademark registrations:

- 14 • LUX BY MIGHT BRIGHT, U.S.P.T.O. Registration No. 4,078,009;
- 15 • LUX, U.S.P.T.O. Registration No. 5,373,222; and
- 16 • LUX LED LIGHTING, U.S.P.T.O. Registration No. 5,585,626.

17 (hereinafter known as the "LUX Trademarks")

18 11. The term "LED" is used in the industry as a reference to a light
19 emitting diode and to a lamp or lighting fixture containing one or more light
20 emitting diodes.

21 12. The term "LUX" is used in the industry as the SI derived unit of
22 illuminance and luminous emittance that measures luminous flux per unit area. In
23 such technical usage, a LUX is equal to one lumen per square meter.

24 13. The LUX Trademarks are valid and enforceable, and that the term
25 LUX, as registered and used by Plaintiff Gold Crest, LLC, is also a trademark that
26 serves as a source identifier when used as a mark on the LEDs (light emitting
27 diodes), lighting fixtures, and LED lamps sold by Plaintiff in the United States.

28 ///

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:
2

3 **STIPULATED INJUNCTION**

4 1. Prohibition Against Infringement.

5 a. Defendant LUX and each and every Former Defendant agrees to
6 and submits to the jurisdiction of the United States District Court for the Central
7 District of California, Western Division without objection or reservation for
8 purposes of this Stipulated Injunction and its enforcement thereof;

9 b. Defendant LUX LED, LLC, all of its officers, members, owners,
10 agents, representatives, servants, and employees, and all those acting in concert or
11 privity with them who receive actual notice of this order; as well as Former
12 Defendants Menon, Muscatwalla, and Bowen, and all those acting in concert or
13 privity with them who receive actual notice of this order, are hereby restrained and
14 enjoined from:

15 i. Publicly displaying the Lux Trademarks in connection
16 with the offering for sale or sale of any services and/or
17 goods;

18 ii. Manufacturing, selling, advertising, distributing,
19 marketing, promoting, licensing, displaying, importing,
20 exporting, transporting through interstate commerce or
21 offering for sale, goods or services bearing the Lux
22 Trademarks, including any lighting products, lighting
23 fixtures, or lighting services bearing the Lux Trademarks
24 or otherwise publicly displaying the Lux Trademarks or a
25 confusingly similar variation of any of the Lux
26 Trademarks in connection with the offering for sale or
27 sale of any lighting services and/or lighting goods;

28 ii. Publicly displaying any trademark or service mark that

1 imitates or is confusingly similar to the Lux Trademarks, or that is likely to cause
2 confusion, mistake, deception, or public misunderstanding as to the origin of Gold
3 Crest's goods and services or their connection to Gold Crest; and

4 iii. Use of the term LUX by Defendants and former
5 Defendants in a purely descriptive, non-trademark manner for the sole purpose of
6 providing technical information regarding the luminous flux per unit area of an
7 LED, a lighting fixture, or an LED lamp shall not violate this injunction. However,
8 any other use of the term LUX other than use as a technical unit of light
9 measurement as it is commonly used in the industry shall violate the terms of this
10 injunction.

11 iv. Use of the term LED for the purpose of referring to light
12 emitting diodes or in order to refer to a lighting fixture or lamp containing one or
13 more light emitting diodes shall not violate this injunction. Defendants and Former
14 Defendants shall be able to use the term LED as it is commonly used in the
15 industry, but they are forever enjoined and barred from using the composite
16 trademark LUX LED in connection with the offering for sale or sale of any services
17 and/or goods.

18 2. Retention of Jurisdiction Regarding Stipulated Injunction.

19 Notwithstanding the dismissal of this instant action with prejudice as
20 described below, it is **FURTHER ORDERED** that this Court retains jurisdiction of
21 this matter for purposes of construction, modification, interpretation, and
22 enforcement of the Stipulated Injunction provided hereinabove.

23 **AGREED ORDER OF DISMISSAL WITH PREJUDICE**

24 3. It is **FURTHER ORDERED** that all claims and causes of action of
25 Plaintiff Gold Crest are hereby in all things **DISMISSED WITH PREJUDICE**,
26 but as set forth above, the Court expressly retains the jurisdiction and power to
27 enforce its Stipulated Injunction in the future concerning Defendant LUX LED and
28 the Former Defendants.

1 4. Any violations of or disputes arising out of or relating to this Permanent
2 Injunction shall be brought before this Court in accordance with and pursuant to the
3 Federal Rules of Civil Procedure and the Local Rules of this District Court.

4 5. All relief not expressly granted in this Agreed Order of Dismissal with
5 Prejudice and Stipulated Injunction is hereby **DENIED**.

6 6. The Court further finds that all claims and causes of action herein have
7 now been dismissed by the Court and that this entire case should therefore be
8 dismissed with prejudice, and it is therefore **ORDERED** that this Agreed Order of
9 Dismissal and Stipulated Injunction disposes of all claims and controversies
10 asserted in the above-styled lawsuit and is **FINAL** and that this entire case is
11 hereby **DISMISSED WITH PREJUDICE**.

12 **SO ORDERED.**

13
14 DATED:

United States District Court Judge

15
16 **SO STIPULATED AND AGREED:**

17 Dated: November 25, 2019



Suneel Menon

18
19
20 Dated: November ____, 2019

Michael Bowen

21
22 Dated: November ____, 2019

Aziz Muscatwalla

23
24
25 Dated: November 25, 2019

LUX LED, LLC

26 By:



President: LUX LED, LLC

1 4. Any violations of or disputes arising out of or relating to this Permanent
2 Injunction shall be brought before this Court in accordance with and pursuant to the
3 Federal Rules of Civil Procedure and the Local Rules of this District Court.

4
5 5. All relief not expressly granted in this Agreed Order of Dismissal with
6 Prejudice and Stipulated Injunction is hereby **DENIED**.

7 6. The Court further finds that all claims and causes of action herein have
8 now been dismissed by the Court and that this entire case should therefore be
9 dismissed with prejudice, and it is therefore **ORDERED** that this Agreed Order of
10 Dismissal and Stipulated Injunction disposes of all claims and controversies
11 asserted in the above-styled lawsuit and is **FINAL** and that this entire case is
12 hereby **DISMISSED WITH PREJUDICE**.

13 **SO ORDERED.**

14 DATED:

United States District Court Judge

16 **SO STIPULATED AND AGREED:**


17 Dated: November ____, 2019

Suneel Menon

19
20 Dated: November ____, 2019

Michael Bowen

21
22 Dated: November 25, 2019



Aziz Muscatwalla

24
25 Dated: November ____, 2019

LUX LED, LLC

26
27 By:

President: LUX LED, LLC

1 4. Any violations of or disputes arising out of or relating to this Permanent
2 Injunction shall be brought before this Court in accordance with and pursuant to the
3 Federal Rules of Civil Procedure and the Local Rules of this District Court.

4 5. All relief not expressly granted in this Agreed Order of Dismissal with
5 Prejudice and Stipulated Injunction is hereby **DENIED**.

6 6. The Court further finds that all claims and causes of action herein have
7 now been dismissed by the Court and that this entire case should therefore be
8 dismissed with prejudice, and it is therefore **ORDERED** that this Agreed Order of
9 Dismissal and Stipulated Injunction disposes of all claims and controversies
10 asserted in the above-styled lawsuit and is **FINAL** and that this entire case is
11 hereby **DISMISSED WITH PREJUDICE**.

12 **SO ORDERED.**

13
14 DATED: February 12, 2020

/s/ Fernando M. Olguin

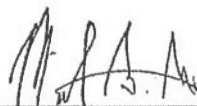
United States District ~~Court~~ Judge

15
16 **SO STIPULATED AND AGREED:**

17 Dated: November ____, 2019

Suneel Menon

18
19
20 Dated: November 25, 2019


Michael Bowen

21
22 Dated: November ____, 2019

Aziz Muscatwalla

LUX LED, LLC

23
24
25 Dated: November ____, 2019

26 By:

President: LUX LED, LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: November 22, 2019

GOLD CREST, LLC

By:



President: GOLD CREST, LLC

Dated: November 22, 2019

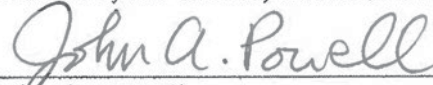
TSIRCOU LAW, P.C.



Kyriacos Tsircou
Attorneys for Plaintiff Gold Crest, LLC

Dated: November 25, 2019

NAMAN, HOWELL, SMITH & LEE, PLLC



John A. Powell
Attorneys for Defendant LUX LED, LLC and
Former Defendants Bowen, Muscatwalla, and
Menon